

1 Cecilia O. Miller (Bar No. 211111)
2 Jamie L. Altman (Bar No. 280075)
3 PROCOPIO, CORY, HARGREAVES &
4 SAVITCH LLP
5 525 B Street, Suite 2200
6 San Diego, CA 92101
7 Telephone: 619.238.1900
8 Facsimile: 619.235.0398
9 Email: cecilia.miller@procopio.com

1 Joseph M. Aliberti (Bar No. 168870)
2 LAW OFFICES OF JOSEPH M. ALIBERTI
3 4340 Von Karman Ave., Suite 110
4 Newport Beach, CA 92660
5 Telephone: 949.724.0550
6 Facsimile: 949.724.1717
7 Email: jma@alibertilaw.com

10 || Attorneys for Defendant
Mostafa Abdou

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

COLUMBIA CASUALTY COMPANY,
Plaintiff,
v.
MOSTAFA ABDOU,
Defendant.

Case No. 3:15-CV-00080 LAB KSC

**DECLARATION OF CECILIA
O. MILLER IN SUPPORT OF
DEFENDANT'S MOTION TO
STAY ACTION**

Date: September 8, 2015
Time: 11:15 a.m.
Dept. 14A
Judge: Hon. Larry A. Burns

Action Filed: January 15, 2015

I, Cecilia O. Miller, declare as follows:

1. I am an attorney duly licensed to practice law before all the courts of the State of California and am a partner with the law firm Procopio, Cory, Hargreaves & Savitch LLP, attorneys of record for Defendant MOSTAFA ABDOU (“Defendant” or “Abdou”) in the above-captioned action. I submit this Declaration in support of Defendant’s Motion to Stay Action.

2. I have personal knowledge of the facts set forth below, with the exception of those matters stated on information and belief, and as to those matters, I believe them to be true. If called upon to testify I could and would testify as follows.

3. On June 25, 2015, Plaintiff COLUMBIA CASUALTY COMPANY (“Columbia”) filed a Motion for Summary Judgment in this action. In support of that Motion for Summary Judgment, Columbia submitted a Declaration of Krissy Meehan [ECF Docket No. 25], which declaration attached as Exhibit 1 [ECF Docket 25-1] a Life Agent Professional Liability Policy identified as Policy Number 425391280 issued by Columbia to The Financial Sales Professionals Purchasing Group for the policy period of July 1, 2014 to July 1, 2015 (the “Policy”). A true and correct copy of Exhibit 1 to the Declaration of Krissy Meehan [ECF Docket No. 25-1] is filed herewith as Exhibit “A.”

4. On October 17, 2014, Defendant Abdou was named as a defendant in the case entitled *Mercola, et al. v. Abdou, et al.*, Case No. 1:14-CV-8170, filed in the Northern District of Illinois (the “*Mercola Action*”). A true and correct copy of the complaint filed in the *Mercola Action* is filed herewith as Ex. “B.”

5. Abdou sought coverage for the *Mercola* Action from Columbia under the Policy. In response to Abdou's request for coverage for the *Mercola* Action, Columbia initially denied any coverage obligation. A true and correct copy of correspondence dated November 24, 2014 from Mr. Richard Simpson of Wiley Rein LLP to counsel to Abdou, Joseph M. Aliberti, is filed herewith as Exhibit "C."

1 6. Upon Abdou's request for reconsideration, Columbia agreed to provide
 2 Abdou with a defense in the *Mercola* Action through independent counsel. A true
 3 and correct copy of correspondence dated December 3, 2014 between Mr. Simpson
 4 of Wiley Rein and Mr. Aliberti is filed herewith as Exhibit "D."

5 7. On January 15, 2015, Columbia initiated the instant litigation against
 6 Abdou seeking a declaration that Columbia is not obligated to provide any insurance
 7 coverage to Abdou for the *Mercola* Action. A true and correct copy of the
 8 Complaint for Declaratory Judgment [ECF Docket No. 1] filed by Columbia against
 9 Abdou is filed herewith as Exhibit "E."

10 8. Columbia filed a Motion for Summary Judgment seeking a declaration
 11 of no coverage on June 25, 2015 [ECF Docket No. 24]. A true and correct copy of
 12 the Memorandum of Points and Authorities in Support of Plaintiff Columbia
 13 Casualty Company's Motion for Summary Judgment is filed herewith as Exhibit
 14 "F."

15 9. In the *Mercola* Action, the parties recently commenced written
 16 discovery and, to date, have not taken any depositions. The only motion practice in
 17 the *Mercola* Action has been motions to dismiss filed by the defendants. A true and
 18 correct copy of the May 7, 2015 Minute Order entered by the court in the *Mercola*
 19 Action setting dates is filed herewith as Ex. "G."

20 10. There is no trial date scheduled in the *Mercola* Action. As outlined in
 21 the May 7, 2015 Minute Order issued by the court in the *Mercola* Action, there is a
 22 dispositive motion deadline of February 26, 2016. Thus, a trial cannot be scheduled
 23 until March of 2016 at the earliest.

24 ///

25 ///

26 ///

27 ///

28 ///

11. Defendant Abdou filed his Answer to the complaint in the *Mercola* Action on June 26, 2015. A true and correct copy of the Answer filed by Abdou in the *Mercola* Action is filed herewith as Ex. "H."

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed this 27th day of July, 2015 at San Diego, California.

s/ Cecilia O. Miller
Cecilia O. Miller